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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/963,631	09/26/2001	Willem Jan Douwe Van Beek	PHNL 000544	9731

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P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

EXAMINER

AU, GARY

ART UNIT	PAPER NUMBER
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2611

DATE MAILED: 08/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/963,631	Applicant(s) VAN BEEK, WILLEM JAN DOUWE	
	Examiner Gary Au	Art Unit 2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>Dec 31, 2001</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Specification

1. The abstract of the disclosure is objected to because it contains legal language "means". Correction is required. See MPEP § 608.01(b).

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 3, 5, 7, and 9 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent No. 6,574,796 Roeck et al. (Roeck).

As to claim 1, Roeck teaches a CATV system (two way HFC cable system – figure 1, col. 2 lines 44-52) comprising a primary station (headend 102 – figure 1, col. 2 lines 44-52) and a secondary station (PC 122 and cable modem 120 – figure 1, col. 3 lines 2-5), the CATV system having a frequency band (50 – 860 MHz, col. 1 lines 61-63 as this range also applies to applicant's invention) with a plurality of substantially equally spaced and sized frequency channels (frequency channel is typically 6 MHz wide in the United States, col. 4 lines 25-27), the CATV system being arranged for transmitting data signals in at least part of the frequency channels from the primary station to the secondary station, the secondary station comprising acquire means (cable modem 120 –figure 1, col. 4 lines 22-32) for acquiring a frequency channel in which at least part of the data signals are transmitted, the acquire means being arranged for scanning the frequency band in frequency steps from a starting frequency until a frequency channel carrying data signals is found (cable modem scans every 6th MHz beginning with 88 MHz, col. 4 lines 59-64), characterized in that the frequency steps are substantially equal to the bandwidth of the frequency channels (the bandwidth of the frequency channels is 6 MHz and the frequency steps is also 6 MHz, col. 4 lines 25-27, 59-64).

As to claim 3, Roeck teaches that the primary station (headend 102 – figure 1, col. 2 lines 44-52) comprises a cable modem termination system (CMTS 104 – figure 1, col. 2 lines 47-50) and in that the secondary station (PC 122 and cable modem 120 – figure 1, col. 3 lines 2-5) comprises a cable modem (cable modem 120 – figure 1, col. 3 lines 2-5).

As to claim 5, Roeck teaches a secondary station (PC 122 and cable modem 120 – figure 1, col. 3 lines 2-5) for receiving data signals in a frequency band (50 – 860 MHz, col. 1 lines 61-63 as this range also applies to applicant's invention) from a primary station (headend 102 – figure 1, col. 2 lines 44-52), the frequency band having a plurality of substantially equally spaced and sized frequency channels (frequency channel is typically 6 MHz wide in the United States, col. 4 lines 25-27), the data signals being received in at least part of the frequency channels, the secondary station comprising acquire means (cable modem 120 –figure 1, col. 4 lines 22-32) for acquiring a frequency channel carrying at least part of the data signals, the acquire means being arranged for scanning the frequency band in frequency steps from a starting frequency until a frequency channel carrying data signals is found (cable modem scans every 6th MHz beginning with 88 MHz, col. 4 lines 59-64), characterized in that the frequency steps are substantially equal to the bandwidth of the frequency channels (the bandwidth of the frequency channels is 6 MHz and the frequency steps is also 6 MHz, col. 4 lines 25-27, 59-64).

As to claim 7, Roeck teaches that the secondary station (PC 122 and cable modem 120 – figure 1, col. 3 lines 2-5) comprises a cable modem (cable modem 120 – figure 1, col. 3 lines 2-5).

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As to claim 9, Roeck teaches a method of acquiring a frequency channel (frequency channel is typically 6 MHz wide in the United States, col. 4 lines 25-27) carrying data signals, the frequency channel being comprised in a frequency band (50 – 860 MHz, col. 1 lines 61-63 as this range also applies to applicant's invention) with a plurality of substantially equally spaced and sized frequency channels, the method comprising the step of scanning the frequency band in frequency steps from a starting frequency until a frequency channel carrying data signals is found (cable modem scans every 6th MHz beginning with 88 MHz, col. 4 lines 59-64), characterized in that the frequency steps are substantially equal to the bandwidth of the frequency channels (the bandwidth of the frequency channels is 6 MHz and the frequency steps is also 6 MHz, col. 4 lines 25-27, 59-64).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2, 4, 6, 8, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 6,574,796 Roeck et al. (Roeck) as applied to claims 1, 5, and 9 above, and further in view of US Patent Application Publication 2001/0053180 Asia et al. (Asia).

US Patent Application Publication 2001/0053180 Asia et al. (Asia) is filed on January 26, 2001 with a provisional application No. 60/178,136 on January 26, 2000. The information disclosed below is from the Patent Application supported by the provisional application.

Considering claims 2, 6, and 10, Roeck discloses a CATV system as described above. Roeck does not teach that the acquire means decreases the frequency steps when no frequency channel is found.

In an analogous art, Asia teaches that the acquire means are arranged for decreasing the size of the frequency steps when no frequency channel carrying data signals can be found (the modem would first scan the entire frequency range with steps of 6 MHz, then decreases to 1 MHz and 250KHz if no downstream frequency has been found, [0037] lines 6-16). Decreasing the size of the frequency steps provides a more accurate scan to identify a frequency channel with data signals.

Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify Roeck's system to include acquire means that are arranged for decreasing the size of the frequency steps when no frequency channel is found, as taught by Asia, for the advantage of scanning the entire frequency range more accurately to identify a frequency channel with data signals when no frequency channel is found with 6 MHz frequency steps.

Considering claims 4 and 8, Roeck discloses a CATV system as described above. Roeck does not teach that the cable modem termination system and the cable modem are DOCSIS-compliant.

In an analogous art, Asia teaches that the cable modem termination system (CMTS 10 – figure 1, see paragraph [0007]) and the cable modem (cable modem 40 – figure 1, see paragraph [0007]) are DOCSIS-compliant (see paragraph [0007]).

Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify Roeck's system to make the cable modem termination system and the cable modem DOCSIS-compliant, as taught by Asia, for the advantage of adapting to a commonly used standard.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US Patent No. 6,011,548 (Thacker) discloses a broadband multimedia data distribution system that integrates satellite broadband data derived from a satellite feed that is distributed over a cable TV network with a legacy corporate local area network. US Patent No. 6,618,387 (Liu et al.) teaches a system and method for integrating a cable modem with a host customer premises equipment.

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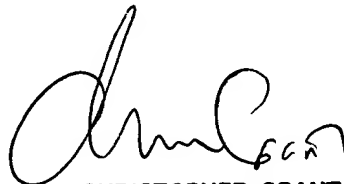
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Au whose telephone number is (571) 272-2822.

The examiner can normally be reached on 8am-4pm Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Grant can be reached on (571) 272-7294. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

GA



CHRISTOPHER GRANT
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600